UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
at CHATTANOOGA

TERRANCE LOWDERMILK,   )
)
       Petitioner,   )
)   No. 1:03-CV-395/1:01-CR-145
v.   )
)   Judge Curtis L. Collier
UNITED STATES OF AMERICA,   )
)
       Respondent.   )

O R D E R

In accordance with the accompanying Memorandum, the Court hereby **GRANTS IN PART** Terrance Lowdermilk's ("Petitioner") § 2255 motion (Court File No. 1) dealing with the issue of ineffective assistance of counsel due to his counsel's failure to file a direct appeal. The Court further **GRANTS** Defendant an out-of-time appeal as the remedy for this ineffective assistance of counsel.

Therefore, the Court **VACATES** Defendant's original judgment and **REIMPOSES** the same sentence. *See Rosinski v. United States*, 459 F.2d 59 (6th Cir. 1972) (per curiam), *accord. Johnson v. United States*, 146 Fed. Appx. 4, *4-*6 (6th Cir. 2005); *see also United States v. Phillips*, 225 F.3d 1198, 1201 (11th Cir. 2000). The Court **WILL ENTER** an Amended Judgment.

Petitioner is hereby notified of the rights associated with an appeal from the sentence the Court reimposes in this Order:

(1)   Petitioner has the right to appeal the reimposed sentence. The Clerk's Office is hereby **ORDERED** to file a notice of appeal for him within **TEN DAYS** from the entry of the Amended Judgment, in accordance with Fed. R. Crim. P. 4(b)(1)(A)(i).

(2)   If Petitioner cannot afford counsel to represent him on appeal, he should make a

request and the Court will appoint counsel to represent him.

The Court also **DENIES IN PART** Petitioner's motion vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255 (Court File No. 1) relating to all other ineffective assistance of counsel claims. With respect to these claims the Court **DECLINES** to issue a certificate of appealability pursuant to 28 U.S.C. § 2253(c) and **CERTIFIES** that any appeal on those ineffective assistance of counsel claims by Petitioner would not be taken in good faith.

SO ORDERED.

ENTER:

/s/_____
CURTIS L. COLLIER
CHIEF UNITED STATES DISTRICT JUDGE